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REMARKS

In the October 10, 2006 final Office Action, the Examiner indicated that Claims 1-22 and 40 are allowed, but that Claims 34-39 are rejected "because they do not recite an invention that produces a useful, concrete, and tangible result." (10/10/06 Office Action at page 2.)

More particularly, the Examiner stated with regard to, for example, Claim 34 that the claim needs "to recite the practical application [in] that the article of manufacture also includes code means embodied therein for controlling fluid flow in dialysis treatment by using the calculated volume." (10/10/06 Office Action at page 3.) The Examiner also objected to Claims 34-39 as improper dependent claims "because they do not incorporate all the limitations of the parent claim" and stated that "Applicant should rewrite the claims to specifically recite the intended formula." (10/10/06 Office Action at page 2.)

By the above amendments, applicants have rewritten Claims 34-39 to respond to the Examiner's rejection and objection as set forth in the Office Action. Specifically, Claims 34-39 have been written in independent form and include a recitation that the volume V (Claims 34 and 37) or the subject-specific calibration constant K_P (Claims 35-36 and 38-39) is used to "control the flow of dialysis fluid through the subject's peritoneal cavity."

As an alternate practical application, the amended claims recite "displaying" the volume V or the subject-specific calibration constant K_P to the subject and/or to a care provider. This alternative is based on In re Alappat, 33 F.3d 1526, 1544, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994), which held that claims drawn to a rasterizer for converting discrete waveform data samples into anti-aliased pixel illumination intensity data to be displayed on a display means were directed to patentable subject matter since the claims defined "a specific machine to produce a useful, concrete, and tangible result." Support for this alternative practical application can be found throughout applicants'

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specification and drawings including in Figure 3 (see display 10) and in applicants' examples.

The above amendments to Claims 34-39 are believed to put this application into condition for allowance. These amendments were not made earlier in the prosecution of this application since applicants had not understood that the Examiner expected a recitation in these claims of specific uses for the calculated volume V or the calculated subject-specific calibration constant K_p beyond the recitation, previously incorporated in the claims, that these calculated values are for use in determining the volume of fluid in the peritoneal cavity of a subject. Accordingly, applicants believe that entry of this amendment at this time is in accordance with 37 CFR 1.116(b)(3) and such action is respectfully requested.

Respectfully submitted,

Date: 1/10/07

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